

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

**TRACEY WHITE et. al.,**

\*

**Plaintiffs,**

\*

**vs.**

\* **Case No. 4:14-cv-01490 (HEA)**

\*

**THOMAS JACKSON, et. al.,**

\*

**Defendants.**

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**PLAINTIFFS' TRIAL BRIEF**

Come now the plaintiffs, by and through counsel, and hereby submit their trial brief in accordance with the Court's Amended Case Management Order of November 24, 2015.

**I. Statement Of Relevant Facts**

On August 8, 2014, Travis Wilson of the Ferguson, Mo., police department and Michael Brown, a teenaged African American encountered one another. A violent confrontation ensued, and Michael Brown, who was unarmed, was shot to death by Travis Wilson. Although the fact that an unarmed African American was shot and killed by a police officer, is not an unusual event in the United States, the Michael Brown shooting was somewhat unique in that it occurred between 12:00 p.m. and 1:00 p.m. in the afternoon, and there were several independent witnesses. As a result of the number of witnesses, technology and the internet, the shooting of Michael Brown was seen by millions of people. The African American community in Ferguson was particularly enraged by what appeared to be an excessive use of force which culminated with Michael Brown being shot in the forehead with the final shot fired by an officer who had already shot Mr. Brown several times prior to that.

Public outrage about the shooting turned into protests which subsequently led to civil unrest in the streets of Ferguson. In response, the Ferguson Police and the St. Louis County Police took up arms and in militaristic displays of force and weaponry engaged U.S. Citizens as if they were war combatants. In doing so, the City of Ferguson and the St. Louis County Police Departments used wanton and unnecessary force and acted as if the civil rights of the citizenry that they encountered had been revoked during the period of August 11-13, 2014. The plaintiffs in this case were all victims of the atrocities committed by the City of Ferguson and the St. Louis County Police Departments during that period.

Plaintiffs Tracey White and William Davis were arrested and subsequently charged with failure to disperse; plaintiff DeWayne Matthews was arrested and subsequently charged with failure to disperse; plaintiff Nathan Burns was arrested and subsequently charged with failure to disperse; plaintiff Theophilus Green was arrested and subsequently charged with failure to disperse; plaintiff Damon Coleman was arrested and subsequently charged with failure to disperse; plaintiff Kerry White was arrested and subsequently charged with failure to disperse; plaintiff Sandy Bowers was arrested and subsequently charged with failure to disperse; plaintiff Kai Bowers was arrested and subsequently charged with failure to disperse; plaintiff Antawn Harris was neither arrested nor charged with a crime. Significantly, none of the plaintiffs were formally charged with an offense prior to the any of the complaints being filed in this matter, the last of which was filed on May 27, 2015.

Plaintiffs T. White, Davis, Green, K. White, Coleman, S. Bowers, K. Bowers, Matthews and Burns have all alleged false arrest and an unlawful seizure against identified officers as well as a direct claim against defendants Chief Belmar, Chief Jackson, the City of Ferguson and St. Louis

County for allowing, and in fact creating a situation in Ferguson, Mo., that amounted to deliberate indifference regarding the rights of the citizenry. Plaintiffs T. White, Green, Burns, Coleman, S. Bowers, K. Bowers, Matthews, K. White and Harris, also allege that they were assaulted and battered and subjected to excessive force in violation of the 4<sup>th</sup> Amendment to the U.S. Constitution.

All of the plaintiffs allege that defendants Chief Belmar, Chief Jackson, the City of Ferguson and St. Louis County created a situation in Ferguson, Mo., following the shooting death of Michael Brown, by implementing a policy where police officers were allowed to ignore the constitutional rights of citizens for the sake of expediency, that resulted in the violation of their constitution right to be free from an unwarranted and unlawful seizure.

## **II. Legal Authority For The Plaintiffs' Claims**

Plaintiffs have alleged common law claims for false arrest and assault and battery. They have also alleged that their constitutional rights were violated and seek to recover for those violations pursuant to 42 U.S.C. §1983. The plaintiffs respectfully refer the Court to their oppositions to the motions for summary judgment filed by the defendants. Nonetheless, the crux of the authority for their claims is that their arrests were effectuated without probable cause, and that the use of force against the plaintiffs was unwarranted in each instance as none of the plaintiffs presented a threat to anyone nor did any one of them resist in any way, shape or form. In addition, the defendants in this case are precluded by the doctrine of collateral estoppel from denying violating the constitutional rights of the plaintiffs who were arrested for failure to disperse because they allegedly did not “move on” when told to so inasmuch as that policy and practice has already been ruled to have been unconstitutional. *Abdullah v. County of St. Louis*, 52 F. Supp. 3d 936, 945-46 (E. D. Mo. 2014).

While it is certain that the defendants will attempt to raise as many obstacles as possible to

prevent an orderly resolution of this fairly simple trial, whose only point of distinction is the number of plaintiffs involved, the plaintiffs are not aware of any legitimate substantive or procedural problems at this time.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing filed electronically with the Clerk of the Court was served electronically via the Court's electronic filing system on this 12<sup>th</sup> day of September, 2016 upon:

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